

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

FILE

JUN 02 2003

OFFICE OF  
MANAGING DIRECTOR

Stephen E. Coran, Esquire  
Manatt, Phelps & Phillips, LLP  
1501 M Street, N.W., Suite 700  
Washington, DC 20005-1702

RE: Request for Fee Determination and Deferral of  
Application Fee  
Fee Control Number 00000 RROG 02 028

Dear Counsel:

This is in response to your Request for Fee Determination and Deferral (Request) dated April 5, 2002 that submitted a fee of \$1,335 for the application filed by KaStarCom. World Satellite, LLC (KaStarCom) to launch and operate a satellite system in the geostationary satellite orbit (GSO) to provide fixed satellite service (FSS) in the Ka-band.<sup>1</sup> On behalf of KaStarCom, you request that the Commission waive its bill to KaStarCom, dated March 7, 2002, for an application fee of \$93,375<sup>2</sup> that relates to an additional satellite.<sup>3</sup>

Pertinent to this Request, on December 22, 1997, KaStarCom initially applied for authority to launch and operate two satellites at two orbital locations,<sup>4</sup> and later, on June 7, 2001, KaStarCom filed an amendment to change the earlier requested orbital locations and the manner in which it would operate the system. In its amended application, KaStarCom proposed to launch and operate one ka-band satellite at one orbit location (111° W.L.), and it also requested authority to share two satellites and orbital locations with WB Holdings, a First Round licensee already authorized to launch and operate its own satellites. The KaStarCom and WB Holdings authorization, although using the same satellites, would operate on different frequencies. In August 2001, the Bureau approved KaStarCom's amended proposal to launch and operate one satellite at the 111° W.L. orbital location, but it deferred action on KaStarCom's additional request for authority to share two other orbital locations.<sup>5</sup> Thereafter, on November 13, 2001, the Bureau granted KaStarCom's remaining request in *Order & Authorization II*.

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<sup>1</sup> The International Bureau granted this application. See KaStarCom. World Satellite, LLC, Application for Authority to Construct, Launch, and Operate a Ka-Band Satellite System in the Fixed-Satellite Service, *Order and Authorization*, 16 FCC Rcd 20133 (2001) (*Order & Authorization II*)

<sup>2</sup> The amount on our Bill for Collection was \$98,125; however, the correct amount, as listed in the Fee Filing Guide, is \$93,375. See 47 CFR § 1.1107(9)(a).

<sup>3</sup> The Bill for Collection included the explanation that "[KaStarCom] amended its pending application to reflect a sharing of two orbital and a request for an additional satellite at a third location. KaStarCom must pay the fee required for a new satellite, \$98,125.00 (sic)."

<sup>4</sup> See *Order & Authorization II*, ¶ 2, 16 FCC Rcd at 20133.

<sup>5</sup> See KaStarCom. World Satellite, LLC, Application for Authority to Construct, Launch, and Operate a Ka-Band Satellite System in the Fixed-Satellite Service, *Order and Authorization*, 16 FCC Rcd 14322 (2001) (*Order & Authorization I*).

In the Request, KaStarCom asserts that the Bureau's characterization of KaStarCom's June 7, 2001 proposal as an amendment to the application filed on December 22, 1997, should also determine the classification of the fee. In this regard, KaStarCom asserts that it should pay only the \$1,335 fee required to apply for an amendment, instead of the significantly greater amount to be paid for an initial application. In its analysis, KaStarCom asserts that the Bureau determined that the proposal was not even a major amendment. In addition, KaStarCom asserts that the Commission's policy is to require a single fee when satellites share an orbital location, citing Public Notice, No. 56031, released September 28, 1995. Because KaStarCom shares two satellites with WB Holdings at the same orbital locations, and WB Holdings has already paid application fees, KaStarCom believes it should pay fees for only two satellite stations, rather than three.

The chronology of events in this matter, as indicated in the International Bureau's orders, reflects that KaStarCom initially sought authority to launch and operate two geostationary satellites in the second Ka-band processing round. Specifically, on December 22, 1997, KaStarCom requested authorization to operate two satellites at the 175° W.L. and 52° E.L. orbital locations.<sup>6</sup> Later, on June 7, 2001, KaStarCom requested a change in these orbital locations and the manner in which it would operate the system.<sup>7</sup> Under that change, KaStarCom proposed to launch and operate one Ka-band satellite at the 111° W.L. orbit location.<sup>8</sup> KaStarCom also requested authorization to share two satellites with WB Holdings at 73° W.L. and 109.2° W.L.<sup>9</sup> The Bureau authorized KaStarCom to launch and operate a satellite at 111° W.L.,<sup>10</sup> but it deferred action on the amended application's request for authority to share with WB Holdings satellites at two other orbital locations.

Thereafter, the Bureau decided in *Order & Authorization II* that the amended application proposing three satellites was not precluded by the Commission's processing rules because it fell within an exception to the cut-off rule concerning a major amendment that does not create new or increased frequency conflicts. Therefore, the Bureau considered the amendment as "part of the Second Ka-Band Processing Round."<sup>11</sup> The Bureau, however, did not conclude that the amended application was not a major amendment. The decision to consider the application in the manner described simply placed it within an exception to the cut-off rule that normally would

<sup>6</sup> The history of these two satellites is summarized at applications SAT-LOA-19980312-00018 and SAT-LOA-19980312-00019 for call signs S2356 and S2355, respectively, for KaStarCom. World Satellite, LLC at Public Notice, *Satellite Policy Branch Information*, Report No. SAT-00012, rel: March 16, 1999. The Public Notice summarized KaStarCom's application as proposing to operate a system on the 18.3-18.8 GHz frequency bands (downlink) and 28.35-28.6 GHz and 29.25-30.0 GHz frequency bands (uplink) at the described orbital locations.

<sup>7</sup> KaStarCom's satellite at 175° W.L. (File No. SAT-LOA-19980312-00018) has call sign S2356.

<sup>8</sup> KaStarCom proposed to operate this satellite in 1000 megahertz of spectrum in the 28.35-28.6 GHz and 29.25-29.5 GHz and 29.5-30.0 GHz frequency bands (uplink) and 1000 megahertz of spectrum in the 18.3-18.8 and 19.7-20.2 GHz frequency bands (downlink). *Order & Authorization I*.

<sup>9</sup> *Id*

<sup>10</sup> Second Round Assignment of Geostationary Satellite Orbit Locations to Fixed Satellite Service Space Stations in the Ka-Band, *Order*, 16 FCC Rcd 14389 (2001).

<sup>11</sup> *Order & Authorization II*, 16 FCC Rcd at 20136.

preclude such amendments to an application within an on-going processing round. See 47 CFR § 25.116(c)(4). KaStarCom received the regulatory benefit of this determination.

The decision to include the amended application as part of that on-going processing round, moreover, did not alter the requirement that the applicant pay the fees appropriate for three satellites. As stated earlier, the total number of satellites contemplated by the amended application resulted in authorization to launch and operate a total of three satellites, each of which was located at a different orbital slot and used different frequencies, one more than were proposed in the original application.<sup>12</sup> The Commission's application fee schedule assesses fees for geostationary satellite orbit satellites on a per satellite basis.<sup>13</sup> Consequently, the fees should have been paid for three satellites, not two. Contrary to KaStarCom's position, this rule is not altered by the Managing Director's former partial waiver of the fee required by § 1.1107 for a brief period. That waiver was limited to applicants proposing more than one technically identical space station that used exactly the same frequency band, and that were to be located at a single orbital location. It permitted them to file their fees based on the number of orbital locations they proposed to occupy rather than the number of space stations.<sup>14</sup> The purpose of the policy was to reduce fees for *identical satellites* submitted by the same operator. Here, two applicants share two satellites, but operate on different frequencies.

Thus, we find that Bill Number 2002IB002 properly required KaStarCom to pay a fee, and the amount of \$92,040 is due not later than 30 days from the date of this letter.<sup>15</sup> If you have any questions concerning this letter, you may call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Reger  
Chief Financial Officer

<sup>12</sup> See Public Notice, *Policy Branch Information, Satellite Space Applications Accepted for Filing*, Report No. SAT-00115, rel: August 1, 2002. KaStarCom, on application SAT-MOD-20020620-00093 requested changes to the construction commencement of these three satellites, i.e., 109.2° W.L., 73° W.L., and 111° W.L.

<sup>13</sup> See 47 CFR § 1.1107; accord Order, *Petition of Panamsat Licensee Corp. to Reopen the Ka-band Satellite Application Processing Round*, ¶ 3, 11 FCC Rcd 5627 (1996).

<sup>14</sup> Public Notice, *Filing Fee Waiver Established for Applications Proposing Geosynchronous Space Stations in Response to Report Nos. SPB-88 and SPB-89 – Cut-Offs Established in the 2 GHz and 36-51.4 GHz Frequency Bands*, released: August 26, 1997, 1997 WL 525444 (F.C.C.).

<sup>15</sup> We credited your initial payment of \$1,335 to the correct fee of \$93,375. The passage of time since your request (received April 15, 2002) makes moot your request to defer payment for a period of six months.

Stephen E. Coran, Esquire  
Manatt, Phelps & Phillips, LLP  
1501 M Street, N.W., Suite 700  
Washington, DC 20005-1702

00000 RROG - 02 - 028

**manatt**  
manatt | phelps | phillips

RECEIVED  
FCC

2002 APR 15 A 11:50

Stephen E. Coran  
Manatt, Phelps & Phillips, LLP  
Direct Dial: (202) 463-4310  
E-mail: scoran@manatt.com

April 5, 2002

NOT AT PROCESSING  
FCC - D/RPT/THT

**VIA COURIER**

William F. Caton, Acting Secretary  
Federal Communications Commission  
Credit and Debt Management Group  
P.O. Box 358345  
Pittsburgh, PA 15251-8345

**Re: KaStarCom World Satellite, LLC**  
**FRN: 0006-8509-60**  
**Call Sign S2335**  
**Bill No.: 2002IB002**

Dear Mr. Caton:

Transmitted herewith on behalf of KaStarCom World Satellite, LLC ("KaStarCom") is its provisional payment in connection with Bill Number 2002IB002 (copy attached). As discussed in KaStarCom's Request for Fee Determination and Deferral ("the Request"), which is being concurrently submitted to the FCC's Office of the Managing Director, KaStarCom should be billed for an amendment to its pending application for a satellite authorization, not for an initial satellite application. Accordingly, an FCC Form 159 and check in the amount of \$1,335.00.00 (Fee Type Code: CWY) are enclosed in payment for the processing fee for an application amendment. As discussed in the Request, KaStarCom respectfully seeks a deferral of six months in connection with the fee invoiced on Bill Number 2002IB002, to the extent KaStarCom is required to pay additional amounts.

Please date-stamp the attached "Stamp & Return" copy of this application and return it to the awaiting courier.



April 5, 2002  
Page 2

Please direct any inquiries or requests for additional information to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen E. Coran". The signature is stylized with a large, sweeping "S" and a distinct "E".

Stephen E. Coran

Enclosures

cc: Claudette Pride, FCC  
David M. Drucker  
Robert Goldstein, Esq.

30129635 1



Non-Public For Internal Use Only

**RAMIS ACCOUNT RECEIVABLES**  
**Check Number Query Report**Page 5 of 5  
Friday, May 10, 2003 02:54 PM

FEE Control Number : 0110228320125001			
Customer FRN	: 9999999982	FRN Name	: GENERIC FRN
Check Number	: 1564		
Receipt Amount	: \$50.00	Date Received	: 10/19/2001
FEE Control Number : 0111088245032010			
Customer FRN	: 0002545929	FRN Name	: Midwest Mobile Radio Service Inc
Check Number	: 15646		
Receipt Amount	: \$100.00	Date Received	: 11/07/2001
FEE Control Number : 0111148160573003			
Customer FRN	: 0004994117	FRN Name	: Allen Holdings, Inc d/b/a Allen Communications
Check Number	: 15647		
Receipt Amount	: \$2,035.00	Date Received	: 11/13/2001
FEE Control Number : 0112268245195014			
Customer FRN	: 0002705432	FRN Name	: Midwest Express Airlines, Inc
Check Number	: 15645		
Receipt Amount	: \$100.00	Date Received	: 12/24/2001
FEE Control Number : 0204178345120001			
Customer FRN	: 0005028055	FRN Name	: Manatt, Phelps & Phillips, LLP
Check Number	: 1564		
Receipt Amount	: \$1,335.00	Date Received	: 04/16/2002
FEE Control Number : 0206218130011015			
Customer FRN	: 0000034280	FRN Name	: RICHARD A WARD
Check Number	: 15641		
Receipt Amount	: \$75.00	Date Received	: 06/20/2002
FEE Control Number : 0208128245325001			
Customer FRN	: 9999999982	FRN Name	: GENERIC FRN
Check Number	: 156400000000		
Receipt Amount	: \$100.00	Date Received	: 08/12/2002

MANATT PHELPS & PHILLIPS, LLP

1501 M ST. NW STE. 700  
WASHINGTON, D.C. 20005

**citibank**

CITIBANK, F.S.B. 1-800-826-1087  
P.O. BOX 19987  
WASHINGTON, DC 20036-0987

THE CITIBANK PRIVATE BANK

1564

15-7011990  
2540

DATE April 5, 2002

PAY One thousand three hundred thirty-five dollars and 00 cents DOLLARS \$ 1,335.00

TO  
THE  
ORDER  
OF

Federal Communications Commission

*Christine J. Horan*

⑈001564⑈ ⑆254070116⑆

⑈3740 2404⑈



READ INSTRUCTIONS CAREFULLY BEFORE PROCEEDING  (1) LOCKBOX # 358345	FEDERAL COMMUNICATIONS COMMISSION <b>REMITTANCE ADVICE</b>	Approved by OMB 3060-0589 Page No <u>1</u> of <u>1</u>
		SPECIAL USE FCC USE ONLY
<b>SECTION A - PAYER INFORMATION</b>		
(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) <b>Manatt, Phelps &amp; Phillips, LLP</b>		(3) TOTAL AMOUNT PAID (U S Dollars and cents) <b>\$1,335.00</b>
(4) STREET ADDRESS LINE NO. 1 <b>1501 M Street, N.W.</b>		
(5) STREET ADDRESS LINE NO. 2 <b>Suite 700</b>		
(6) CITY <b>Washington</b>		(7) STATE <b>D.C.</b>
		(8) ZIP CODE <b>20005</b>
(9) DAYTIME TELEPHONE NUMBER (include area code) <b>(202) 463-4300</b>		(10) COUNTRY CODE (if not in U.S.A.)
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(11) PAYER (FRN) <b>0005028</b>		(12) PAYER (TIN) <b>952317841</b>
IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)		
(13) APPLICANT NAME <b>KaStarCom World Satellite, LLC</b>		
(14) STREET ADDRESS LINE NO. 1 <b>P.O. Box 1471</b>		
(15) STREET ADDRESS LINE NO. 2		
(16) CITY <b>Evergreen</b>		(17) STATE <b>CO</b>
		(18) ZIP CODE <b>80437</b>
(19) DAYTIME TELEPHONE NUMBER (include area code) <b>(720) 746-1996</b>		(20) COUNTRY CODE (if not in U.S.A.)
<b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>		
(21) APPLICANT (FRN) <b>0006-8509-60</b>		(22) APPLICANT (TIN) <b>541781002</b>
<b>COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET</b>		
(23A) CALL SIGN/OTHER ID <b>S2335</b>		(24A) PAYMENT TYPE CODE <b>CWY</b>
		(25A) QUANTITY <b>1</b>
(26A) FEE DUE FOR (PTC) <b>\$1,335.00</b>	(27A) TOTAL FEE <b>\$1,335.00</b>	FCC USE ONLY
(28A) FCC CODE 1		(29A) FCC CODE 2
(23B) CALL SIGN/OTHER ID		(24B) PAYMENT TYPE CODE
		(25B) QUANTITY
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY
(28B) FCC CODE 1		(29B) FCC CODE 2
<b>SECTION D - CERTIFICATION</b>		
(30) CERTIFICATION STATEMENT I, <b>Stephen E. Coran</b> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief SIGNATURE <u><i>Stephen E. Coran</i></u> DATE <u>4/5/02</u>		
<b>SECTION E - CREDIT CARD PAYMENT INFORMATION</b>		
(31) <input type="checkbox"/> MASTERCARD <input type="checkbox"/> VISA MASTERCARD/VISA ACCOUNT NUMBER _____		EXPIRATION DATE _____
I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described. SIGNATURE _____ DATE _____		

Federal Communications Commission  
BILL FOR COLLECTION

FOR INQUIRIES CALL  
1-202-418-1995  
(Credit and Debt Management Group)

*copy sent Eric*

Bill Number	Bill Date
2002IB002	03/07/02

Please write your bill number on your remittance.

KASTARCOM WORLD SATELLITE, LLC  
PO BOX 1471  
EVERGREEN, CO 80439

Payable to  
**Federal Communications Commission**  
Send a copy of this bill to  
**Federal Communications Commission**  
**Credit and Debt Management Group**  
**P.O. BOX 358345**  
**PITTSBURGH, PA 15251 - 5345**

Total Amount Due	Total Amount Due Must Be Received By	Due Date
\$98,125.00		04/07/02

LICENSEE AMENDED ITS PENDING APPLICATION TO REFLECT A SHARING OF TWO ORBITAL AND A REQUEST FOR AN ADDITIONAL SATELLITE AT A THIRD LOCATION KASTARCOM MUST PAY THE FEE REQUIRED FOR A NEW SATELLITE, \$98,125 00

Please attach a copy of this bill to your payment to ensure proper credit.

Payment Type Code			Quantity	Fee Due	
B	N	Y	1	\$98,125.00	\$98,125.00
Total Due					\$98,125.00

Payment Method: Check ☐ (Attach)  
Credit card ☐ (Complete Below)

☐ MASTERCARD

☐ VISA

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Expiration

Month	Year		

I hereby authorize the FCC to charge my MASTERCARD or VISA for the service(s) / authorization(s) herein described

AUTHORIZED SIGNATURE

DATE

**manatt**  
manatt | phelps | phillips

**TAMP & RETURN**

Stephen E. Coran  
Manatt, Phelps & Phillips, LLP  
Direct Dial: (202) 463-4310  
E-mail: scoran@manatt.com

April 5, 2002

**RECEIVED**

**VIA HAND DELIVERY**

Andrew S. Fishel, Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 1-A625  
Washington, DC 20554

APR 05 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**ATTN: REQUEST FOR FEE DETERMINATION AND DEFERRAL**

Re: *KaStarCom World Satellite, LLC*  
*FRN: 0006-8509-60*  
*Call Sign S2335*  
*Bill No.: 2002IB002*  
*Request for Fee Determination and Deferral*

Dear Mr. Fishel:

On behalf of KaStarCom World Satellite, LLC ("KaStarCom"), this is to request a Fee Determination in connection with the March 7, 2002 "Bill for Collection" ("Invoice") issued by the Office of Managing Director ("OMD") regarding KaStarCom's amendment of the above-referenced satellite authorization.<sup>1</sup> In the Invoice, OMD claims that KaStarCom owes the Commission processing fees in the amount of \$93,375.00 by April 7, 2002 because of its "request for an additional satellite."<sup>2</sup>

As described below, at most KaStarCom should be required to pay the amount of \$1,335.00 for the *amendment* to its application (Fee Code: CWY), not the \$93,375.00 associated with an *initial application* for launch and operation of a "new satellite." Contemporaneously herewith, KaStarCom is submitting a provisional payment in the amount of \$1,335.00 to the FCC's Pittsburgh lockbox.<sup>3</sup> At FCC Staff's direction, given the imminent due date for payment

<sup>1</sup> See FCC File Nos. 102-SAT-P/LA-98, IBFS Nos. SAT-LOA-19980312-00018, SAT-AMD-20010607-0050.

<sup>2</sup> A copy of the Invoice is attached as Exhibit 1 hereto for the convenience of FCC staff. Although the Invoice states that the fee due for processing fee code "BNY" is \$98,125.00, KaStarCom has confirmed with Commission staff that the correct amount for an initial application is \$93,375.00. See International and Satellite Services Fee Filing Guide (September, 2000 Edition) at p. 13. By contrast, \$98,125.00 is the amount of the *annual regulatory fee* associated with *operating* GSO FSS satellites.

<sup>3</sup> A copy of the payment filing is attached as Exhibit 2 hereto.



April 5, 2002

Page Two

and substantial invoiced amount, KaStarCom respectfully requests deferral of the fee for six months or until such time as the Commission acts on this request for fee determination.

### ***Background***

In its initial application filed in the second Ka-band processing round on December 22, 1997, KaStarCom requested allocation of Ka-band orbital slots at 175° W.L. and 52° E.L.<sup>4</sup> Following several years of negotiations, a majority of the second-round applicants reached agreement on the allocation of orbital slots. In a joint letter dated November 1, 2000, these applicants notified the Commission of the consensus agreement.<sup>5</sup> The joint letter indicated that KaStarCom preferred allocation of 1000 MHz at the 111° W.L. orbital slot and 500 MHz each at the 109.2° W.L. and 73° W.L. orbital slots instead of the two slots requested in KaStarCom's initial application. The satellites at 109.2° W.L. and 73° W.L. would be shared with WB Holdings I LLC ("WB Holdings"), which was authorized in the first Ka-band processing round for the remaining 500 MHz of spectrum at each slot.

By letter dated June 7, 2001, at the request of Commission staff, KaStarCom reaffirmed its preference for the slots identified in the November 1 joint letter.<sup>6</sup> On June 19, 2001, Commission staff issued a Public Notice inviting public comment on the June 7 letter, which it characterized as an "Amendment" to KaStarCom's initial application.<sup>7</sup> Following a pleading cycle on the Amendment, on November 13, 2001, the International Bureau ("Bureau") issued an order granting the Amendment and the authorization for the 109.2° W.L. and 73° W.L. orbital slots.<sup>8</sup>

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<sup>4</sup> KaStarCom submitted filing fees for the launch and operation of two Ka-band satellites.

<sup>5</sup> A copy of the November 1, 2000 joint letter is attached as Exhibit 3 hereto. The letter described the so-called Revised Majority Plan and modified an earlier Majority Plan filed with the Commission on August 11, 2000.

<sup>6</sup> A copy of the June 7 letter is attached as Exhibit 4 hereto.

<sup>7</sup> Public Notice, Report No. SAT-00073 (released June 19, 2001) ("Public Notice"). A copy of the Public Notice is attached as Exhibit 5 hereto.

<sup>8</sup> See *KaStarCom World Satellite, LLC*, Order and Authorization, DA 01-2614, released November 13, 2001, a copy of which is attached as Exhibit 6 hereto (the "Amendment Order"). The Commission had previously granted KaStarCom its requested orbital slot at 111° W.L. See *KaStarCom World Satellite, LLC*, Order and Authorization, DA 01-1687, released August 3, 2001 ("August Order"); *Second Round Assignment of Geostationary Satellite Orbit Locations to Fixed Satellite Service Space Stations in the Ka-Band*, Order, DA 01-1693, released August 3, 2001.

April 5, 2002  
Page Three

***Request for Fee Determination***

KaStarCom submits that the amount of the Invoice is erroneous, and that, at most, KaStarCom should be obligated to pay only the \$1,335.00 filing fee applicable to amendments to satellite applications. In the *Amendment Order*, consistent with the Public Notice, the Bureau specifically stated that the June 7 letter was an amendment to KaStarCom's initial application. In fact, in addressing petitions to deny the amended application, the Bureau determined that the June 7 letter was not even a "major" amendment, stating as follows:

Here KaStarCom's *amendment* is for the same amount of spectrum initially requested. Although KaStarCom also requested an additional orbital location, this request does not increase the potential for interference nor does it create new or increased frequency conflicts. In fact, KaStarCom's request actually increased the number of unencumbered orbital slots available for assignment in the Second Ka-Band Processing Round.<sup>9</sup>

The Bureau refers to KaStarCom's "amendment" or "amended application" no fewer than 12 times in the *Amendment Order*, consistent with the notation on the Public Notice identifying the June 7 letter as an "Amendment." Indeed, because of the benefits associated with the sharing of orbital slots and satellites, and the fact that new spectrum was not requested, the Amendment was not even treated as a "major" amendment, which would have rendered the June 7 letter a newly-filed application subject to the Commission's cut-off rules.

In addition, assessment of the \$93,375.00 "initial application" fee would be inconsistent with Commission policy. In adopting its filing fee policies for the Ka-band, the Commission was cognizant of the possibility that an applicant might seek to deploy multiple satellites at a single orbital location. To reduce the burden associated with paying filing fees for each proposed satellite, the OMD issued a public notice stating that filing fees should be filed only for each requested "orbital location, regardless of how many space stations are proposed for operation."<sup>10</sup> This policy is intended to accommodate satellite systems where the applicant plans to deploy multiple satellites at a single orbital location. The same policy considerations apply here, where two licensees efficiently propose to share a single satellite at a single orbital location at each of 109.2° W.L. and 73° W.L.

<sup>9</sup> *Amendment Order* at 4 (emphasis added).

<sup>10</sup> Public Notice, No. 56031, released September 28, 1995.



April 5, 2002  
Page Four

Indeed, as noted above, KaStarCom previously paid filing fees for two orbital slots, and the predecessors-in-interest to WB Holdings paid filing fees for two orbital slots along with its first-round application in 1995. Thus, all told, the Commission already has received filing fees for four separate orbital slots, yet only three (111° W.L., 109.2° W.L. and 73° W.L.) will be occupied by KaStarCom and WB Holdings. To require KaStarCom to pay another \$93,375.00 in addition to what it already has paid is fundamentally unfair and contrary to Commission policy.

In sum, KaStarCom's June 7 letter was an amendment, and has consistently been characterized as such by the Bureau. KaStarCom should not be assessed a filing fee applicable to an initial application.

#### *Request for Deferral of Fees*

Pursuant to Section 1.1117 of the Commission's Rules, KaStarCom respectfully requests deferral of the payment of the fees listed on the Invoice for a period of six months, or until such time as the Commission acts on this Request for Fee Determination. Processing fees may be deferred "where good cause is shown and . . . deferral of the fee would promote the public interest."<sup>11</sup> Here, there is good cause for deferring the fee because of the substantial difference between the \$1,335.00 fee applicable to amendments (which KaStarCom is paying today) and the \$93,375.00 fee applicable to initial applications. In this context, KaStarCom would be prejudiced by the unavailability of more than \$90,000.00 during the pendency of this matter. Such unavailability would be inequitable given the substantial factual and legal basis for KaStarCom's request. Accordingly, deferral of the invoiced fees for a period of six months, or until KaStarCom's Request for Fee Determination is decided, will promote the public interest in correct and fair application of the Commission's processing fees.<sup>12</sup>

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<sup>11</sup> 47 CFR § 1.1117(a).

<sup>12</sup> Based on undersigned counsel's discussions with FCC staff, KaStarCom understands that it will not be subject to a penalty in connection with this request.



April 5, 2002  
Page Five

***Conclusion***

KaStarCom respectfully submits that the amount of the Invoice is incorrect and, accordingly, requests a fee determination finding that KaStarCom should instead be required to pay the \$1,335.00 fee applicable to the amendment of its satellite application.<sup>13</sup> In addition, KaStarcom respectfully requests that the fees requested in the Invoice be deferred for six months, during the pendency of this request for fee determination.

Please contact undersigned counsel if there are any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen E. Coran".

Stephen E. Coran

cc: Claudette Pride, FCC  
David M. Drucker  
Robert Goldstein, Esq.

---

<sup>13</sup> Although the *Amendment Order* modified KaStarCom's application as granted in the *August Order*, the \$6,670.00 filing fee associated with modifications (Fee Type Code BFY) also would be inapplicable because KaStarCom's June 7 letter was filed before the Commission granted KaStarCom's initial application.

**manatt**  
manatt | phelps | phillips

Stephen E. Coran  
Manatt, Phelps & Phillips, LLP  
Direct Dial: (202) 463-4310  
E-mail: scoran@manatt.com

April 5, 2002

**VIA COURIER**

William F. Caton, Acting Secretary  
Federal Communications Commission  
Credit and Debt Management Group  
P.O. Box 358345  
Pittsburgh, PA 15251-8345

Re: **KaStarCom World Satellite, LLC**  
**FRN: 0006-8509-60**  
**Call Sign S2335**  
**Bill No.: 2002IB002**

Dear Mr. Caton:

Transmitted herewith on behalf of KaStarCom World Satellite, LLC ("KaStarCom") is its provisional payment in connection with Bill Number 2002IB002 (copy attached). As discussed in KaStarCom's Request for Fee Determination and Deferral ("the Request"), which is being concurrently submitted to the FCC's Office of the Managing Director, KaStarCom should be billed for an amendment to its pending application for a satellite authorization, not for an initial satellite application. Accordingly, an FCC Form 159 and check in the amount of \$1,335.00.00 (Fee Type Code: CWY) are enclosed in payment for the processing fee for an application amendment. As discussed in the Request, KaStarCom respectfully seeks a deferral of six months in connection with the fee invoiced on Bill Number 2002IB002, to the extent KaStarCom is required to pay additional amounts.

Please date-stamp the attached "Stamp & Return" copy of this application and return it to the awaiting courier.



**manatt**  
manatt | phelps | phillips

April 5, 2002

Page 2

Please direct any inquiries or requests for additional information to the undersigned.

Respectfully submitted,

  
Stephen E. Coran

Enclosures

cc: Claudette Pride, FCC  
David M. Drucker  
Robert Goldstein, Esq.

30129635.1

READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE

Approved by OMB

3060-0589

Page No 1 of 1

(1) LOCKBOX # 358345

SPECIAL USE

FCC USE ONLY

SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)  
Manatt, Phelps & Phillips, LLP

(3) TOTAL AMOUNT PAID (U.S. Dollars and cents)

\$1,335.00

(4) STREET ADDRESS LINE NO. 1  
1501 M Street, N.W.

(5) STREET ADDRESS LINE NO. 2  
Suite 700

(6) CITY  
Washington

(7) STATE  
D.C.

(8) ZIP CODE  
20005

(9) DAYTIME TELEPHONE NUMBER (include area code)  
(202) 463-4300

(10) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(11) PAYER (FRN)

0005028

(12) PAYER (TIN)

952317841

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B  
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

(13) APPLICANT NAME  
KaStarCom World Satellite, LLC

(14) STREET ADDRESS LINE NO. 1  
P.O. Box 1471

(15) STREET ADDRESS LINE NO. 2

(16) CITY  
Evergreen

(17) STATE  
CO

(18) ZIP CODE  
80437

(19) DAYTIME TELEPHONE NUMBER (include area code)  
(720) 746-1996

(20) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(21) APPLICANT (FRN)

0006-8509-60

(22) APPLICANT (TIN)

541781002

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID  
S2335

(24A) PAYMENT TYPE CODE  
CWY

(25A) QUANTITY  
1

(26A) FEE DUE FOR (FTC)  
\$1,335.00

(27A) TOTAL FEE

\$1,335.00

FCC USE ONLY

(28A) FCC CODE 1

(29A) FCC CODE 2

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (FTC)

(27B) TOTAL FEE

FCC USE ONLY

(28B) FCC CODE 1

(29B) FCC CODE 2

SECTION D - CERTIFICATION

(30) CERTIFICATION STATEMENT

I, Stephen E. Coran, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.

SIGNATURE

DATE 4/5/02

SECTION E - CREDIT CARD PAYMENT INFORMATION

(31)

MASTERCARD/VISA ACCOUNT NUMBER.

EXPIRATION  
DATE:

☐ MASTERCARD

☐ VISA

I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.

SIGNATURE

DATE

**FOR INQUIRIES CALL**  
**1-202-418-1995**  
**(Credit and Debt Management Group)**

I hereby authorize the FCC to charge my MASTERCARD or VISA for the service(s) / authorization(s) herein described

04/18/2002 1

**EXHIBIT 3**

November 1, 2000

**EX PARTE**

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: File Nos. SAT-AMD-19971219-00199, SAT-AMD-19971222-00204, SAT-AMD-19971222-00216, SAT-AMD-19971222-00229, SAT-AMD-19980123-00009, SAT-LOA-19951109-00185, SAT-LOA-19951109-00186, SAT-LOA-19970702-00057, SAT-LOA-19971222-00201, SAT-LOA-19971222-0205, SAT-LOA-19971222-00206, SAT-LOA-19971222-00207, SAT-LOA-19971222-00208, SAT-LOA-19971222-00209, SAT-LOA-19971222-00211, SAT-LOA-19971222-00212, SAT-LOA-19971222-00213, SAT-LOA-19971222-00214, SAT-LOA-19971222-00215, SAT-LOA-19971222-00223, SAT-LOA-19971222-00224, SAT-LOA-19971222-00225, SAT-LOA-19971222-00226, SAT-LOA-19971222-00227, SAT-LOA-19971222-00228, SAT-LOA-19980312-00018, SAT-LOA-19980312-00019, SAT-LOA-19980403-00025, SAT-LOA-19980403-00026, SAT-LOA-19980403-00027, SAT-LOA-19980403-00028, SAT-LOA-1998-0403-00029, 94- through 98-SAT/P/LA-97, SAT-LOI-19971222-0217, and SAT-LOI-19971222-0218  
**Revision to Proposed Orbital Assignment Plan**

Dear Ms. Salas:

On August 11, 2000, the following applicants in the Commission's second processing round for geostationary fixed-satellite service systems in the Ka-band (the "Original Settlement Group") filed a joint letter proposing an orbital assignment plan for the second processing round (the "Majority Plan"): CAI Data Systems, Inc., TRW Inc., Celsat America, Inc., Hughes Communications, Inc., Lockheed Martin Corporation, KaStarCom World Satellite, LLC, and Pacific Century Group.<sup>1</sup>

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<sup>1</sup> An alternative settlement proposal was filed by a group consisting of CAI Data Systems, Inc. (which joined in both settlement proposals), DirectCom Networks, Inc. ("DirectCom"), and Pegasus Development Corporation ("Pegasus"). On August 11, 2000, PanAmSat Corporation filed its own list of preferred second-round Ka-band orbital assignments. The remaining two applicants (Loral Cyberstar, Inc. and Motorola, Inc.) did not file or join in any new assignment plan proposals, and have not opposed or commented on any of the other proposals.

Ms. Magalie Roman  
November 1, 2000  
Page 2

Discussions have continued since the filing of the Majority Plan, as a result of which the Original Settlement Group has been able to agree on a revised orbital assignment plan (the "Revised Majority Plan") that includes PanAmSat Corporation ("PanAmSat"). The attached chart details the Revised Majority Plan.

The Revised Majority Plan leaves unchanged the orbital locations previously proposed for assignment to applicants other than PanAmSat, but makes several changes in proposed assignments to PanAmSat. These changes have been made in an effort to accommodate the modified list of orbital locations that PanAmSat, in its August 11, 2000 filing, stated that it is seeking in the second round. In particular, the Revised Majority Plan: (1) eliminates the proposed assignments to PanAmSat of 43° W.L. and 169° E.L., orbital locations that PanAmSat relinquished in its August 11 filing; and (2) earmarks 58° W.L. and 133° W.L. for PanAmSat, slots that were unassigned in the Majority Plan.

In its August 11 filing, PanAmSat had proposed that it be assigned the 125° W.L. orbital location. As an accommodation, however, PanAmSat has agreed to accept 133° W.L. in lieu of 125° W.L., because the Majority Plan proposed the latter orbital location for assignment to Pegasus. The Revised Majority Plan, therefore, continues to propose that this slot be assigned to Pegasus.

The members of the Original Settlement Group, in their August 11 filing and in separate letters that some members submitted, demonstrated how the Majority Plan provides a reasonable basis for resolving orbital assignment issues in the second round. The public interest considerations supporting the Majority Plan are unaffected by the changes instituted by the Revised Majority Plan, and the Revised Majority Plan has additional elements weighing in its favor.

First, now that PanAmSat has been added to the Original Settlement Group, the Revised Majority Plan encompasses eight of the twelve second round applicants. The Revised Majority Plan, therefore, moves a significant step closer toward a full consensus.

Second, the Revised Majority Plan would resolve a pending dispute relating to the first Ka-band processing round. Although PanAmSat was authorized in the first round to use 58° W.L. and 125° W.L., the International Bureau cancelled those authorizations based on its finding that PanAmSat had not satisfied applicable construction milestones.<sup>2</sup> PanAmSat has filed an application for review of the Bureau's

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<sup>2</sup> See PanAmSat Licensee Corp., File Nos. 198/199-SAT-P/LA-95 *et al.*, Memorandum Opinion and Order (rel. June 26, 2000).

Ms. Magalie Romar, Jals  
November 1, 2000  
Page 3


decision, and two second-round applicants have opposed the application for review PanAmSat has agreed that, if it is licensed to use 58° W.L. and 133° W.L. in the second round, it will withdraw its application for review. We believe that adds a very important element of legal and regulatory certainty to the availability of those slots for assignment to interested applicants.

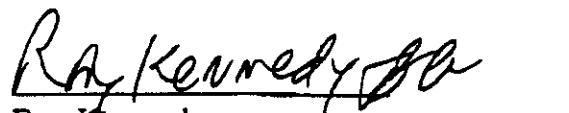
In view of the foregoing, the parties below respectfully request that the Commission make second round Ka-band orbital assignments based on the attached Revised Majority Plan.

Respectfully,

CAI DATA SYSTEMS, INC.

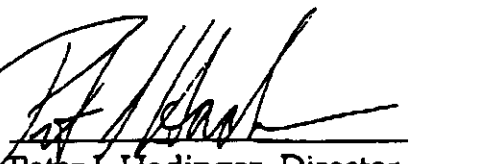
PACIFIC CENTURY GROUP, INC.

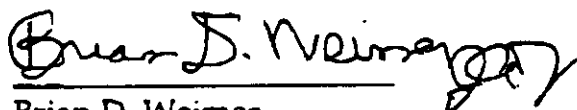
  
James U. Troup  
Brian D. Robinson  
Arter & Hadden LLP  
1801 K Street, N.W., Suite 400K  
Washington, DC 20036  
(202) 775-7100  
Counsel for CAI Data Systems, Inc.

  
Ray Kennedy  
Executive Vice President, Engineering  
Pacific Century Group, Inc.  
38<sup>th</sup> Floor, Citibank Tower  
3 Garden Road  
Central, Hong Kong SAR  
011-852-2509-9917

TRW INC

CELSAT AMERICA, INC.

  
Peter J. Hadinger, Director  
Telecom. Strategy  
1001 19<sup>th</sup> Street, North, Suite 800  
Arlington, VA 22209  
(703) 276-5156

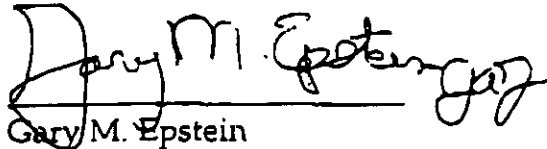
  
Brian D. Weimer  
Skadden Arps Slate Meagher &  
Flom LLP  
1440 New York Avenue, NW  
Washington, DC 20005  
(202) 371-7604  
Counsel for Celsat America, Inc.

Ms. Magalie Romar, Jalas

November 1, 2000

Page 4

HUGHES COMMUNICATIONS, INC



Gary M. Epstein

John P. Janka

Arthur S. Landerholm

Latham & Watkins

1001 Pennsylvania Avenue, NW

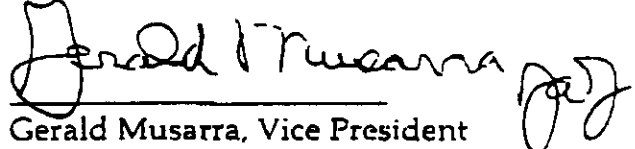
Suite 1300

Washington, DC 20004

(202) 637-2200

Counsel for Hughes Communications, Inc.

LOCKHEED MARTIN CORPORATION



Gerald Musarra, Vice President

Trade & Regulatory Affairs

Lockheed Martin Corporation

Crystal Square 2, Suite 403

1725 Jefferson Davis Highway

Arlington, Virginia 22202

(703) 413-5791

KASTARCOM WORLD SATELLITE, LLC



David M. Drucker, President

Televerde Communications Corp.

Manager

PANAMSAT CORPORATION



Joseph A. Godles, Esq.

Goldberg, Godles, Wiener & Wright

1229 Nineteenth Street, NW

Washington, DC 20036

(202) 429-4200

Counsel for PanAmSat Corporation

Attachment

cc: Donald Abelson  
Thomas Tycz  
Fern Jarmulnek  
Jennifer Gilsenan  
Ronald Repasi  
Julie Garcia  
Selina Khan  
Attached Service List



**REVISED PROPOSED ORBITAL ASSIGNMENT PLAN**  
**FOR SECOND PROCESSING ROUND OF KA-BAND AS SUBMITTED BY**  
**CAI DATA SYSTEMS, INC., CELSAT AMERICA, INC., KASTARCOM**  
**WORLD SATELLITE, LLC, HUGHES COMMUNICATIONS, INC.,**  
**LOCKHEED MARTIN CORPORATION, PACIFIC CENTURY GROUP,**  
**PANAMSAT CORPORATION, AND TRW, INC.**

Orbital Position	USA Filing	1 <sup>st</sup> Round Licensee	Available in 2 <sup>nd</sup> Round?	Proposed 2 <sup>nd</sup> Round Assignment
147.0W	31A	Morning Star	Y	
139.0W	31B		Y	Motorola
137.0W	37B		Y	
133.0W	37C		Y	PanAmSat
131.0W	37D		Y	
129.0W	37E		Y	Pegasus
127.0W	31D		Y	Lockheed Martin
125.0W	31E	PanAmSat	Y	Pegasus
123.0W	31F		Y	Hughes
121.0W	31G	Echostar	500 MHz	Celsat
119.0W	31C		Y	Directcom
117.0W	32A		Y	Directcom
115.0W	31H	Loral CyberStar	N	
113.0W	31I	VisionStar	N	TRW (as applied for)
111.0W	TBD		Y	KaStar
109.2W	31J	KaStar	500 MHz	KaStar

Orbital Position	USA Filing	1 <sup>st</sup> Round Licensee	Available in 2 <sup>nd</sup> Round?	Proposed 2 <sup>nd</sup> Round Assignment
107.0W	37F		Y	CAI Data
105.0W	31K	GE	N	
103.0W	31L	PanAmSat	N	
101.0W	31M	Hughes	N	
99.0W	31N	Hughes	N	
97.0W	31O	Astrolink	N	
95.0W	31P	Net-Sat 28	Y	TRW
93.0W	31Q	Loral CyberStar	N	
91.0W	31R	Motorola	N	
89.0W	31S	Loral CyberStar	N	Pacific Century Group (1)
87.0W	31T	Motorola	N	
85.0W	31U	GE	N	
83.0W	31V	Echostar	500 MHz	Celsat
81.0W	31W	Loral CyberStar	N	Pacific Century Group (1)
79.0W	31X		Y	Lockheed Martin
77.0W	31Y	Motorola	N	
75.0W	31Z	Motorola	N	Pacific Century Group (1)
73.0W	33U	KaStar	500 MHz	KaStar

Orbital Position	USA Filing	1 <sup>st</sup> Round Licensee	Available in 2 <sup>nd</sup> Round?	Proposed 2 <sup>nd</sup> Round Assignment
71.0W	37G		Y	Hughes
69.0W	32D		N	
67.0W	31B	Loral CyberStar	N	
65.0W	37H		N	
62.0W	32A	MorningStar	Y	Pegasus
58.0W	32C	PanAmSat	Y	PanAmSat
51.0W	37I		Y	
49.0W	32E	Hughes	N	
47.0W	32F	Loral CyberStar	N	
45.0W	33M		Y	PanAmSat
43.0W	33N		Y	
26.2W	32H		Y	Motorola
21.5W	32K	Astrolink	N	
17.0W	32I	GE	N	
15.0W	33S		Y	Loral CyberStar
7.5W	32J		Y	Hughes
2.0E	32L	Astrolink	N	
15.0E	37J		Y	TRW
25.0E	33L	Hughes	N	
28.0E	32G		Y	Pegasus
30.0E	32M	MorningStar	Y	

Orbital Position	USA Filing	1 <sup>st</sup> Round Licensee	Available in 2 <sup>nd</sup> Round?	Proposed 2 <sup>nd</sup> Round Assignment
36.0E	32N	PanAmSat	N	
38.0E	32O			
40.0E	32P	PanAmSat	N	
42.0E	32Q		Y	Motorola
46.0E	37K			
48.0E	32R	PanAmSat	N	
50.0E	37L		Y	
52.0E	32S		Y	Lockheed Martin
54.0E	32T	Hughes	N	
56.0E	32U	GE	N	
64.5E	37M			
68.5E	33O		Y	PanAmSat
70.5E	37N			
72.7E	33P		Y	PanAmSat
78.0E	32V	Loral CyberStar	N	
89.0E	37O		Y	Pegasus
97.0E	32W		Y	Motorola
99.0E	32X		Y	Lockheed Martin
101.0E	32Y	Hughes	N	
103.0E	32Z		Y	Hughes
105.5E	33A	Loral CyberStar	N	

Orbital Position	USA Filing	1 <sup>st</sup> Round Licensee	Available in 2 <sup>nd</sup> Round?	Proposed 2 <sup>nd</sup> Round Assignment
107.5E	33B	MorningStar	Y	
111.0E	29E	Hughes	N	
114.5E	33C	GE	N	
116.5E	33D		Y	TRW
124.5E	33E	PanAmSat	N	
126.5E	33F	Loral CyberStar	N	
130.0E	33G	Astrolink	N	
139.0E	33T		Y	Loral CyberStar
149.0E	33H	PanAmSat	N	
151.5E	33I		Y	Lockheed Martin
155.0E	37P		Y	Motorola
160.0E	37Q			
164.0E	33J	Hughes	N	
166.0E	33Q		Y	PanAmSat
169.0E	33R		Y	
173.0E	33K	PanAmSat	N	
175.25E	29F	Astrolink	N	

(1) Pacific Century Group requested 82W and 89W in its Letter of Intent and also has ITU priority at 75W. The Commission should accommodate Pacific Century Group in light of the ITU priority of its requested slots in a manner consistent with Commission policy.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Letter was sent by first-class mail, postage prepaid, this 1st day of November, 2000, to each of the following:

James Troup, Esq.  
Arter & Hadden, LLP  
1801 K Street, NW  
Suite 400K  
Washington, DC 20006

Peter Hadinger  
Director, Telecom Strategy  
TRW, Inc.  
1001 19th Street, North  
Suite 800  
Arlington, VA 22209

John P. Stern  
Loral Space & Communications Ltd.  
1755 Jefferson Davis Highway  
Suite 1007  
Arlington, VA 22202

Norman P. Leventhal, Esq.  
Stephen D. Baruch, Esq.  
Leventhal, Senter & Lerman  
2000 K Street, NW  
Suite 600  
Washington, DC 20006

Brian D. Weirner, Esq.  
Skadden Arps Slate Meagher & Flom, LLP  
1440 New York Avenue, NW  
Washington, DC 20005

Gary P. Epstein, Esq.  
John P. Janka, Esq.  
Arthur S. Landerholm, Esq.  
Latham & Watkins  
1001 Pennsylvania Avenue, NW  
Suite 1300  
Washington, DC 20004

-3-

Tara K. Giunta, Esq.  
Coudert Brothers  
1627 Eye Street, NW  
12th Floor  
Washington, DC 20006

Peter A. Rohrbach, Esq.  
Karis Hastings, Esq.  
Yaron Dori, Esq.  
Hogan & Hartson, LLP  
555 13th Street, NW  
Washington, DC 20004

William D. Wallace, Esq.  
Crowell & Moring, LLP  
1001 Pennsylvania Avenue, NW  
Washington, DC 20004

Ray Kennedy, Esq.  
Pacific Century Group, Inc.  
38th Floor, Citibank Tower  
3 Garden Road  
Central, Hong Kong  
SAR

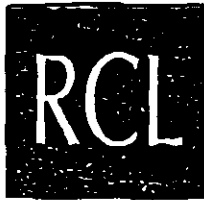
Scott Blake Harris, Esq.  
Harris Wiltshire & Grannis, LLP  
1200 18th Street, NW  
Washington, DC 20036

David Brown, Esq.  
KaStarCom. World Satellite, LLC  
4600 South Syracuse Street  
Suite 500  
Denver, CO 80237

/s/ Candace Gentry  
Candace Gentry

**EXHIBIT 4**





RINI,  
CORAN &  
LANCELLOTTA,  
P.C.

*Attorneys at Law*

RECEIVED

JUN 7 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

1350 Connecticut Avenue, N.W.  
Suite 900  
Washington, D.C. 20036-1701  
Tel (202) 296-2007  
Fax (202) 429-0551  
www.fcc.gov

June 7, 2001

VIA HAND DELIVERY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

STAMP & RETURN

Re: *KaStarCom World Satellite, LLC*  
*File No. SAT-LOA-19980312-00018*  
*Response to Commission Staff Request*

Dear Ms Salas:

At the informal request of Commission staff, this letter is filed on behalf of KaStarCom World Satellite, LLC ("KaStarCom") to re-affirm KaStarCom's preference for spectrum for uplink and downlink operations, inter-satellite links, telemetry, tracking & control, and transfer orbit and emergency operations. The attached Appendix A provides this information.

Commission staff also requested information concerning the manner in which KaStarCom proposes to operate its satellites. To reiterate information contained in its letter to the Commission staff dated June 1, 2001, KaStarCom has expressed a preference for the following orbital assignments:

73° W.L.	500 MHz
109.2° W.L.	500 MHz
111° W.L.	1000 MHz

WB Holdings I, LLC ("WB") holds orbital assignments in the Ka-band for the 73° W.L. and 109.2° W.L. orbital locations, and currently is in the process of constructing its authorized satellites. Therefore, if the authorizations are granted as proposed by KaStarCom, WB and KaStarCom would share those two orbital locations, though they would operate on different frequencies.

KaStarCom envisions that, as licensees of co-located Ka-band satellites at 73° W.L. and 109.2° W.L., WB and KaStarCom would jointly construct and own a single satellite at each such location. Consistent with Commission policy, KaStarCom and WB each would maintain control of its authorized spectrum segment and the operations to be



RINI,  
CORAN &  
LANCELLOTTA,  
P.C.

*Attorneys at Law*

Magalie Roman Salas, Secretary

June 7, 2001

Page 2

conducted thereunder. Specifically, KaStarCom would be responsible for monitoring the operation of the satellites using its assigned frequencies in order to ensure compliance with the Commission's rules, including requirements for satellite coordination and other technical aspects of space station operation. In addition, KaStarCom would retain exclusive control over operations on the frequencies assigned to it, and access to and from the KaStarCom capacity on those satellites. Both WB and KaStarCom would have the right and ability to cease their respective operations on the satellites or the relevant transponders upon Commission request.

Please contact undersigned counsel if any questions arise concerning this matter.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Stephen E. Coran", is written over a horizontal line.

Stephen E. Coran

Counsel to KaStarCom World Satellite, LLC

cc: Donald Abelson  
Thomas Tycz  
Fern Jarmulnek  
Jennifer Gilsonan  
Selina Khan

### Appendix A

When fully deployed, KaStarCom will use the following frequency bands for its operations at the 73° W.L., 109.2° W.L., and 111° W.L. orbital locations:

Orbital Location	Ground-to-Space Communications	Space-to-Ground Communications
73° W.L.	29.5-30.0 GHz	19.7-20.2 GHz
109.2° W.L.	28.35-28.6 GHz and 29.25-29.5 GHz	18.3-18.8 GHz
111° W.L.	28.35-28.6 GHz and 29.25-29.5 GHz and 29.5-30.0 GHz	18.3-18.8 GHz and 19.7-20.2 GHz

For in-band tracking, telemetry and command (TT&C), KaStarcom, when fully deployed, will use the following frequency bands:

Orbital Location	Ground-to-Space		Space-to-Ground	
	Satellite Command	Satellite Tracking Beacon	Satellite Telemetry	Rain Beacon
73° W.L.	29.995-30.000 GHz	29.500-29.505 GHz	19.700-19.705 GHz	20.195-20.200 GHz
109.2° W.L.	28.350-28.355 GHz	29.250-29.255 GHz	18.300-18.305 GHz	18.795-18.800 GHz
111° W.L.	29.995-30.000 GHz	29.500-29.505 GHz	19.700-19.705 GHz	20.195-20.200 GHz

For orbit raising and contingency operations, KaStarcom, when fully deployed, will use the following frequency bands:

Orbital Location	Ground-to-Space Orbit Raising/ Contingency	Space-to-Ground Orbit Raising/ Contingency
73° W.L.	5.8565-5.8600 GHz and 6.4205-6.4240 GHz	3.7000-3.7035 GHz and 4.1960-4.1995 GHz
109.2° W.L.	5.8565-5.8600 GHz and 6.4205-6.4240 GHz	3.7000-3.7035 GHz and 4.1960-4.1995 GHz
111° W.L.	5.8565-5.8600 GHz and 6.4205-6.4240 GHz	3.7000-3.7035 GHz and 4.1960-4.1995 GHz

For intersatellite links (ISLs), KaStarcom, when fully deployed, will use the following frequency bands:

Orbital Location	Intersatellite Links
73° W.L.	69.0-70.0 GHz
109.2° W.L.	69.0-70.0 GHz
111° W.L.	69.0-70.0 GHz

**EXHIBIT 5**



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
445 12th STREET S.W.  
WASHINGTON D.C. 20554

News media information 202-418-0500  
Fax-On-Demand 202-418-2830; Internet: <http://www.fcc.gov> (or <ftp.fcc.gov>)  
TTY (202) 418-2555

Report No. SAT-00073

Tuesday June 19, 2001

## SATELLITE POLICY BRANCH INFORMATION

### Applications Accepted for Filing

The applications listed below have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of the applications if, upon further examination, it is determined the application is not in conformance with the Commission's rules or its policies. Petitions, oppositions and other pleadings filed in response to this notice should conform to Section 25.154 of the Commission's rules, unless otherwise noted. 47 C.F.R. § 25.154.

SAT-AMD-20010607-00050 S2356 KASTARCOM, WORLD SATELLITE, LLC

#### Amendment

On June 7, 2001, in response to a request from Commission, KaStarCom World Satellite, LLC filed a letter reaffirming its preference for spectrum for uplink and downlink operations, inter-satellite links, telemetry, tracking and control, and transfer orbit and emergency operations. In addition, KaStarCom reiterated its preference for the following orbital locations:

73° W.L. -- 500 MHz  
109.2° W.L. -- 500 MHz  
111° W.L. -- 1000 MHz

COMMENTS on this letter may be filed on or before JULY 5, 2001. REPLIES may be filed on or before JULY 13, 2001

SAT-LOA-20010510-00045 S2430 DIRECTV ENTERPRISES, INC.

#### Launch and Operating Authority

DIRECTV Enterprises, Inc. has filed an application for authority to launch and operate a direct broadcast satellite, DIRECTV 4S, and colocate it at the 101° W.L. orbital location with its DIRECTV 2, 3 and 1R satellites.

DIRECTV 4S is designed to provide U.S. domestic broadcast satellite service and is a 'spot beam' satellite specifically intended to provide additional local broadcast channel programming capacity for DIRECTV's existing system. The DIRECTV constellation at 101° W.L. consists of DIRECTV 2 and 3 located at 100.8° W.L. and 100.85° W.L., respectively, and DIRECTV 1R at 101.2° W.L. DIRECTV is seeking authority to launch, operate and colocate the DIRECTV 4S satellite at 101.2° W.L. and, upon successful launch of the DIRECTV 4S satellite, to drift DIRECTV 1R slightly east from its current position at 101.2° W.L. to 101.15° W.L. DIRECTV intends to operate DIRECTV 4S on a non-broadcast, non-common carrier basis, and may sell and/or lease a portion of its capacity on a non-common carrier basis for complementary business services.

For more information concerning this Notice, contact the Satellite and Radiocommunication Division at 202-418-0719; TTY 202-418-2555.

## EXHIBIT 6



## Federal Communications Commission

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	File Nos. 102-SAT-P/LA-98
KaStarCom, World Satellite, LLC	)	IBFS Nos. SAT-LOA-19980312-00018
Application for Authority to Construct,	)	SAT-AMD-20010607-0050
Launch, and Operate a Ka-Band Satellite	)	Call Sign S2355
System in the Fixed-Satellite Service	)	
	)	
	)	

## ORDER AND AUTHORIZATION

Adopted: November 13, 2001

Released: November 13, 2001

By the Chief, International Bureau:

## I. INTRODUCTION

1. With this *Order and Authorization*, we complete action on KaStarCom, World Satellite, LLC's ("KaStarCom") application to launch and operate a satellite system in the geostationary-satellite orbit to provide fixed-satellite service ("FSS") in the Ka-band.<sup>1</sup> Specifically, we modify KaStarCom's authorization to operate at the 73° W.L. and 109.2° W.L. orbital locations. This action allows KaStarCom the opportunity to provide consumers access to a variety of competitive satellite communications services in a frequency band suitable for advanced broadband, interactive services.

## II. BACKGROUND

2. KaStarCom was one of 12 applicants seeking authority to operate geostationary satellite orbit ("GSO") satellites in the second Ka-band processing round. In May 1997, the International Bureau ("Bureau") licensed 13 applicants to launch and operate GSO satellite systems as part of the first Ka-band processing round ("First Round").<sup>2</sup> In October 1997, the Bureau established a second processing round ("Second Round"), inviting interested parties to file applications on or before December 22, 1997 for consideration in this round. On August 3, 2001, the Bureau adopted the *Second Round GSO Assignment Order* that assigned orbit locations to 11 companies to operate GSO Ka-band satellites at a total of 34 orbit locations.<sup>3</sup> The *Second Round GSO Assignment Order*, assigned KaStarCom to the 111° W.L. orbital location.<sup>4</sup>

<sup>1</sup> For purposes of this order, the term "Ka-band" or "28 GHz band" refer to the space-to-Earth communications (downlink) in radio frequencies at 17.7-20.2 GHz and the corresponding Earth-to space communications (uplink) in frequencies at 27.5-30.0 GHz. We authorize KaStarCom to operate in a portion of these frequency bands indicated in this order.

<sup>2</sup> The Bureau also licensed one non-geostationary-satellite orbit ("NGSO") Ka-band system. See *Teledesic Corporation, Application for Authority to Construct, Launch and Operate a Low Earth Orbit Satellite System in the Domestic and International Fixed Satellite Service*, Order and Authorization, 12 FCC Rcd 3154 (Int'l Bur. 1997).

<sup>3</sup> *Second Round Assignment of Geostationary Satellite Orbit Locations to Fixed Satellite Service Space*

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3. KaStarCom, a Delaware limited liability company, filed its application on December 22, 1997.<sup>5</sup> In its application, KaStarCom requested authority to launch and operate two satellites at the 175° W.L. and 52° E.L. orbital locations.<sup>6</sup> On June 7, 2001, KaStarCom filed an amendment to change its previously requested orbital locations and to change the manner in which it proposes to operate its system.<sup>7</sup> In its amended application, KaStarCom proposed to launch and operate one Ka-band satellite at the 111° W.L. orbit location.<sup>8</sup> In addition, KaStarCom requested authority to share the 73° W.L. and 109.2° W.L. orbital locations with WB Holdings, a first round licensee authorized to launch and operate satellites using 500 megahertz of Ka-band spectrum at these orbital locations.<sup>9</sup> Specifically, KaStarCom and WB Holdings jointly proposed to construct and own a single satellite at each location with each licensee operating on 500 megahertz of spectrum.<sup>10</sup> KaStarCom proposes to provide high-speed, switched data, video, and video telephone satellite communications services to individual and business users on a non-common carrier basis.<sup>11</sup> On June 19, 2001, the Bureau placed the amendment on Public Notice.<sup>12</sup> In August 2001, the Bureau acted on a portion of KaStarCom's amended application and authorized it to launch and operate one satellite at the 111° W.L. orbital location. This satellite was

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*Stations in the Ka-Band, Order*, DA 01-1693 (Int'l Bur. rel. August 3, 2001) ("Second Round GSO Assignment Order")

<sup>4</sup> See also *KaStarCom.. World Satellite, LLC, Application for Authority to Construct, Launch and Operate a Ka-band Satellite in the Fixed Satellite Service, Order and Authorization, Order and Authorization*, DA 01-1687 (Int'l Bur. rel. August 3, 2001) ("KaStarCom 111° W.L. Order and Authorization").

<sup>5</sup> See *Application of KaStarCom, World Satellite, LLC, File Nos. 101-SAT-P/LA-98 and 102-SAT-P/LA-98; IBFS Nos. SAT-LOA-19980312-00019 and SAT-LOA-19980312-00018* (December 22, 1997) ("KaStarCom Application").

<sup>6</sup> *Id.*

<sup>7</sup> See Letter from Stephen E. Coran, Counsel to KaStarCom, World Satellite, LLC to Magalie Roman Salas, Secretary, Federal Communications Commission (June 1, 2001). See also Letter from Stephen E. Coran, Counsel to KaStarCom, World Satellite, LLC to Magalie Roman Salas, Secretary, Federal Communications Commission (June 7, 2001). See also Public Notice, Satellite Policy Branch Information, Applications Accepted for Filing, KaStarCom, World Satellite, LLC, SAT-AMD-20010607-0050 (June 19, 2001).

<sup>8</sup> *Id.*

<sup>9</sup> See *In the Matter of KaStar Satellite Communications Corporation Application for Authority to Construct, Launch, and Operate a Ka-band Satellite System in the Fixed-Satellite Service*, 13 FCC Rcd 1366 (1997) ("WB Authorization Order"). In a series of name changes and pro forma transfers of control and assignments, Ka-Star became iSky, which in turn, became Wildblue Communications, Inc. Wildblue Communications, Inc. is the parent company of WB Holdings 1 LLC. See letter from William M. Wiltshire, Counsel, WB Holdings 1 LLC, to Magalie Roman Salas, Secretary, Federal Communications Commission (November 3, 2000). See also letter from William M. Wiltshire, Counsel, WB Holdings 1 LLC, to Magalie Roman Salas, Secretary, Federal Communications Commission (January 8, 2001) Request for Pro Forma Assignment of License of KaStar 73 Acquisition, LLC to WB 1 LLC (File No. SAT-ASG-20010108-00004).

<sup>10</sup> See Letter from Stephen E. Coran, Counsel to KaStarCom, World Satellite, LLC to Magalie Roman Salas, Secretary, Federal Communications Commission (June 7, 2001).

<sup>11</sup> KaStarCom Application at p. 8.

<sup>12</sup> See Public Notice, Satellite Policy Branch Information, Applications Accepted for Filing, KaStarCom World Satellite, LLC, SAT-AMD-20010607-0050 (June 19, 2001).

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authorized to use 1000 megahertz of Ka-band spectrum.<sup>13</sup> The Bureau deferred action on KaStarCom's request to share two satellites at the 73° W.L. and 109.2° W.L. orbital locations with WB Holdings until the Bureau had an opportunity to review the pleadings filed in response to this request.<sup>14</sup>

4. KaStarCom proposes to operate the 73° W.L. orbit location at 29.50-30.0 GHz for uplink (Earth-to-space) communications and 19.7-20.2 GHz bands for downlink (space-to-Earth) operations. It proposes to operate the 109.2° W.L. orbital location at the 28.35-28.6 and 29.25-29.5 for uplink (Earth-to-space) communications and the 18.3-18.8 GHz bands for downlink (space-to-Earth) operations.<sup>15</sup> KaStarCom also requests authority to conduct its tracking, telemetry and command ("TT&C") functions during transfer-orbit operations in the C-band frequencies.<sup>16</sup> Finally, it requests authority to operate inter-satellite links ("ISLs") in the 69.0-70.0 GHz frequency bands.<sup>17</sup>

5. Several Second Round Ka-band applicants filed petitions to deny KaStarCom's initial application.<sup>18</sup> Pegasus Development Corp. ("Pegasus") argued that KaStarCom's ownership interest in DirectCom Networks, Inc. ("DirectCom"), another Second Round applicant, should be considered when assigning orbital locations. Pegasus argued that KaStarCom should not be treated as a new entrant because of its ownership interest in WB Holdings, a first-round licensee. Accordingly, Pegasus argued that KaStarCom should not be assigned any orbital locations within that portion of the geostationary satellite orbital arc that is capable of serving the contiguous United States. Pegasus raises these same issues in its Petition to Deny KaStarCom's amendment. These issues were addressed in the *Second Round GSO Orbital Assignment Order*.<sup>19</sup>

6. DirectCom and Pegasus also argue that pursuant to Section 25.140(e), the rule that limits the number of orbital locations that may be assigned to each applicant, the Bureau should limit KaStarCom to two orbital locations in each frequency band.<sup>20</sup> We also addressed this argument in the *Second Round GSO Assignment Order*. In that Order, the Bureau waived Section 25.140(e), for the

<sup>13</sup> See *KaStarCom 111° W.L. Order and Authorization*.

<sup>14</sup> The pleading cycle closed on July 13, 2001.

<sup>15</sup> See Letter from Stephen E. Coran, Counsel to KaStarCom, World Satellite, LLC to Magalie Roman Salas, Secretary, Federal Communications Commission (June 1, 2001). See also Letter from Stephen E. Coran, Counsel to KaStarCom, World Satellite, LLC to Magalie Roman Salas, Secretary, Federal Communications Commission (June 7, 2001).

<sup>16</sup> *Id.* KaStarCom requests authority to conduct transfer orbit command functions in the 5856.5-5860 MHz and 6420.5-6424 MHz band and its telemetry functions in the 3700-3703.5 MHz bands and 4196-4199.5 MHz bands.

<sup>17</sup> ISLs are communication links between in-orbit satellites. ISLs operate in spectrum allocated to the inter-satellite service. See International Telecommunication Union Radio Regulation S1.22.

<sup>18</sup> Consolidated Reply to Oppositions of Pegasus, July 2, 1999, Consolidated Petition to Deny filed by Pegasus Development Corporation, filed May 25, 1999, Motorola's Consolidated Petition To Deny And Comments, filed May 21, 1999 and Consolidated Petitions to Dismiss, Deny or Defer of Hughes Communications Galaxy, Inc. and Hughes Communications Inc., filed May 21, 1999.

<sup>19</sup> *Second Round GSO Assignment Order*. See also *KaStarCom 111° W.L. Order and Authorization*.

<sup>20</sup> Petition to Deny of DirectCom Networks, Inc., filed July 5, 2001 and Petition to Deny filed by Pegasus Development Corporation, filed July 5, 2001.

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Second Round applicants because an assignment plan was adopted that accommodated all requested satellites.<sup>21</sup>

### III. DISCUSSION

#### A. Treatment of Amendment

7. DirectCom and Pegasus oppose KaStarCom's amended application claiming it is a major amendment because it seeks changes in orbital assignments and that the "addition" of a third orbital slot increases frequency conflicts.<sup>22</sup> In its initial application, KaStarCom requested 1000 megahertz of Ka-band spectrum at the 175° W.L. and 52° E.L. orbital locations.<sup>23</sup> It later amended its application and changed its requested orbital locations to the 73° W.L. and 109.2° W.L. orbital locations using 500 megahertz of Ka-band spectrum at each orbital location and 1000 megahertz at the 111° W.L. orbital location.

8. Under Section 25.116 of the Commission's rules, if a space station application amendment is characterized as a "major" amendment the entire application must be treated as newly filed and the applicant loses its status in any ongoing processing round.<sup>24</sup> The Commission's rules also provide an exception for applications that do not create new or increased frequency conflicts.<sup>25</sup> In the *Second Round GSO Orbital Assignment Order*, we adopted an assignment plan that accommodated all requested satellites.<sup>26</sup> In that case, there were no frequency or orbital conflicts because all applicants could be accommodated. In fact, there are a sufficient number of Ka-band orbit locations available to meet the requests of KaStarCom. Here KaStarCom's amendment is for same amount of spectrum initially requested. Although KaStarCom also requested an additional orbital location, this request does not increase the potential for interference nor does it create new or increased frequency conflicts. In fact, KaStarCom's request actually increased the number of unencumbered orbital slots available for assignment in the Second Ka-band Round.<sup>27</sup> For these reasons, we will consider KaStarCom's amendment as part of the Second Ka-Band Processing Round.

<sup>21</sup> *Second Round GSO Assignment Order* at ¶ 16-17. The rule limiting orbit locations was also waived in the first Ka-band FSS processing round. *Assignment of Orbital Locations to Space Stations in the Ka-Band*, DA 97-967, 13 FCC Rcd 1030 ¶ 24 (Int'l Bur. 1997) ("First Round Assignment Order").

<sup>22</sup> Petition to Deny of DirectCom Networks, Inc., filed July 5, 2001 and Petition to Deny of Pegasus, filed July 5, 2001.

<sup>23</sup> *Id*

<sup>24</sup> 47 C.F.R. § 25.116(c). See *Volunteers in Technical Assistance for Authority to Construct, Launch and Operate a Non-Voice, Non-Geostationary Mobile Satellite System*, Memorandum Opinion and Order, 11 FCC Rcd 1358 (1995) *aff'd* 12 FCC Rcd 13995 (1997) (application for additional frequencies treated as ineligible for consideration as part of first round little LEO processing group but considered in second processing round)

<sup>25</sup> 47 C.F.R. § 25.116(c)(4).

<sup>26</sup> See *Second Round GSO Orbital Assignment Order*.

<sup>27</sup> See Letter from Stephen D. Baruch, Counsel to TRW Inc. to Magalie Roman Salas, Secretary, Federal Communications Commission (July 5, 2001). TRW Inc. ("TRW") filed a letter in support of KaStarCom's amended application and states that grant of the 73° W.L. and 109.2° W.L. to KaStarCom is in the public interest, and would assist in the resolution of assignments in the second Ka-band processing round.

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**B. Qualifications**

9. All applicants requesting authority to launch and operate satellite space stations must present information sufficient to establish their legal, technical, and financial qualifications to hold a Commission license. The rules set forth in Part 25 of the Commission's rules govern FSS applicants and licensees, including this space station application for GSO FSS in the Ka-band frequencies. The Commission modified the Part 25 FSS rules in 1997 to incorporate the particular technical requirements for operations in the Ka-band frequencies.<sup>28</sup> As in all other FSS licenses issued in the Ka-band, we will generally apply all Part 25 FSS rules, specifically noting, however, where we decide not to apply existing rules.

**1. Number of Orbit Locations**

10. The Commission's Part 25 FSS rules include a limit on the number of orbit locations that may initially be assigned to a qualified GSO FSS applicant.<sup>29</sup> The rules also limit the number of additional, expansion orbit locations that may be assigned to applicants with previously licensed systems using the same frequency bands.<sup>30</sup> Generally, the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question, and would otherwise serve the public interest.<sup>31</sup> The Commission waived the assignment limit rules in the first Ka-Band GSO FSS round because the applicants had agreed to an arrangement that accommodated all pending applications for space stations, and left room for additional assignments.<sup>32</sup> In the Second Round, we determined that we could accommodate all pending requests for space stations, with room for additional entry.<sup>33</sup> We therefore again waive application of the Commission rule limiting GSO FSS orbit locations. Consequently, we will not, as Pegasus and DirectCom request, limit the number of assignments to KaStarCom.

**2. Technical Qualifications**

11. Applicants for FSS space station authorizations must meet the technical qualification requirements set forth in the Commission's Part 25 rules. These requirements are designed primarily to implement two-degree orbital spacing between GSO FSS satellites. The Commission's two-degree spacing policy, which was established in 1983, was designed to maximize the number of satellites in orbit by ensuring that satellites in geostationary-satellite orbit can operate without causing harmful interference to other GSO satellites located as close as two-degrees.<sup>34</sup>

<sup>28</sup> *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, Third Report and Order, FCC 97-378, 12 FCC Red 22310 (1997) ("Ka-Band FSS Rules Order"); Memorandum Opinion and Order, FCC 01-172 (rel. May 25, 2001) (order on petitions for clarification or reconsideration).

<sup>29</sup> 47 C.F.R. § 25.140(e).

<sup>30</sup> 47 C.F.R. § 25.140(f).

<sup>31</sup> *WAT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

<sup>32</sup> *Ka-Band FSS Rules Order*, 12 FCC Red at 22320 ¶ 24.

<sup>33</sup> For a more detailed discussion, see *Second Round GSO Assignment Order*, at ¶ 17.

<sup>34</sup> *Licensing of Space Stations in the Domestic Fixed-Satellite Service*, 54 Rad. Reg. 2d (P&F) 577, 589 (1983) ("Two-Degree Spacing Order").

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12. In the *Ka-Band FSS Rules Order*, the Commission adopted its proposal to extend its two-degree spacing policy between in-orbit satellites to space stations in the Ka-band.<sup>35</sup> We believe that it remains in the public interest to maximize the number of satellites that can be accommodated in orbit by extending the Commission's existing two-degree GSO spacing policy to Ka-band orbital assignments in the Second Round. All GSO FSS licensees in the Second Round will therefore be required to be two-degree GSO spacing compliant.

13. The one exception to the two-degree spacing requirement in this Second Round is an orbit location assignment made at the request of the short-spaced (i.e. less than two-degrees apart) licensee and applicant affected. KaStarCom, is licensed to launch and operate a satellite at the 111° W.L. orbit location. This assignment is only 1.8 degrees away from the 109.2° W.L. orbit location.<sup>36</sup> TRW states that in the event KaStarCom is granted use of the 111° W.L. orbit location, it should be prepared to coordinate its use with other operators in this portion of the orbital arc, so that the short spacing proposed between 109.2° W.L. and 111° W.L. does not unreasonably impinge upon the use of the 113° W.L. orbit location.<sup>37</sup> We believe that by authorizing the 109.2° W.L. and 111° W.L. orbital locations to a single licensee, KaStarCom will be in a better position to minimize the potential for interference to other licensees.

14. The Second Round Ka-band applications were received subsequent to the *Ka-Band FSS Rules Order* but prior to the *18 GHz Band Report and Order*.<sup>38</sup> In both orders, rules affecting two-degree orbital spacing were adopted. We remind KaStarCom of its continuing obligation to meet all Part 25 rules governing system operations, including Sections 25.202 (frequencies, frequency tolerances, and emission limitations) and Section 25.210 (technical requirements for space stations in the Fixed-Satellite service).<sup>39</sup> Further, KaStarCom must meet the current Ka-band power flux-density ("pfd") limits of Section 25.208 which were adopted after KaStarCom filed its application.<sup>40</sup> As a condition of this authorization, KaStarCom must meet these revised pfd limits.

### 3. Financial Qualifications

15. The Commission's FSS rules require that an applicant for a new fixed-satellite system possess sufficient financial resources to cover the construction, launch, and first-year operating costs of each proposed satellite.<sup>41</sup> We have waived these rules, however, in those cases where we can

<sup>35</sup> *Ka-Band FSS Rules Order*, 12 FCC Rcd at 22320 ¶ 23

<sup>36</sup> See *KaStar Satellite Communications Corporation Application for Authority to Construct, Launch, and Operate a Ka-band Satellite System in the Fixed-Satellite Service*, DA 01-231, 13 FCC Rcd 1366 (1997). See also *Second Round GSO Assignment Order* at fn. 16

<sup>37</sup> See Letter from Stephen D. Baruch, Counsel to TRW Inc. to Magalie Roman Salas, Secretary, Federal Communications Commission (July 5, 2001).

<sup>38</sup> *Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use*, FCC 00-212, 15 FCC Rcd 13,430 (2000) ("18 GHz Band Report and Order").

<sup>39</sup> 47 C.F.R. §§ 25.202 and 25.210

<sup>40</sup> 47 C.F.R. § 25.208.

<sup>41</sup> 47 C.F.R. § 25.140(b)-(e).

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accommodate all pending applications. The Commission's financial qualification rules are designed to prevent under-capitalized licensees from holding valuable orbit spectrum resources to the exclusion of others while they attempt to arrange financing to construct and launch the licensed system. Where all applicants can be accommodated, however, granting a license to an under-capitalized applicant will not prevent another applicant from going forward.<sup>42</sup> In addition, there is a pro-competition public interest benefit in licensing all applicants, if possible. We waived the financial qualifications rules for the First Round applicants because all of those applicants could be accommodated in the available orbital locations and there were additional orbital locations available for future entrants.<sup>43</sup> In the *Second Round GSO Assignment Order*, we also determined that we can accommodate all pending Second Round applicants' requests for FSS space stations in the Ka-band, and still have orbital locations available for future entrants. We therefore waive the financial qualification requirements for Second Round applicants. Consequently, it is unnecessary to rule on KaStarCom's financial qualifications.

## B. Spectrum Assignments

### 1. Service Links

16. In the *28 GHz Band First Report and Order*, the Commission adopted a band segmentation plan that designated one gigahertz of spectrum in each transmission direction for GSO FSS Ka-band systems.<sup>44</sup> For uplink (Earth-to-space) transmissions, the Commission designated 250 megahertz of spectrum between 28.35 and 28.6 GHz, 250 megahertz of spectrum between 29.25 and 29.5 GHz (shared on a co-primary basis with non-geostationary satellite orbit, mobile satellite service feeder links), and 500 megahertz of spectrum between 29.5 and 30.0 GHz for GSO FSS operations. For downlink (space-to-Earth) communications, the Commission designated 1100 megahertz of spectrum between 17.7 and 18.8 GHz for GSO FSS operations (shared on a co-primary basis with terrestrial fixed-service) and 500 megahertz of spectrum between 19.7 and 20.2 GHz for primary GSO FSS operations. The Commission later refined the downlink plan for the frequency band between 17.7 and 18.8 GHz, by designating 280 megahertz of spectrum between 18.3 and 18.58 GHz for co-primary GSO FSS and terrestrial fixed service operations and 220 megahertz of spectrum between 18.58 and 18.8 GHz for primary GSO FSS operations.<sup>45</sup>

17. In its amended application, KaStarCom proposes to operate the 73° W.L. orbital location on the 29.50-30.0 GHz and the 109.2° W.L. orbital location on the 28.35-28.6 and 29.25-29.5 GHz bands for uplink communications. This request is consistent with the 28 GHz band plan, and we will therefore authorize KaStarCom to operate on these frequencies, subject to the sharing rules adopted in the *28 GHz Band First Report and Order*.

<sup>42</sup> See generally *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626/2483.5-2500 MHz Frequency Bands*, Report and Order, 9 FCC Rcd 5936 at ¶ 26 (1994) ("Big LEO Report and Order").

<sup>43</sup> See *Ku-Band FSS Rules Order*, 12 FCC Rcd at 22318 ¶ 18.

<sup>44</sup> *Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, First Report and Order and Fourth Notice of Proposed Rulemaking, FCC 96-311, 11 FCC Rcd 19005 (1996) ("28 GHz Band First Report and Order").

<sup>45</sup> See *18 GHz Band Report and Order*. Stations operating in primary services are protected against interference from stations of "secondary" services. Moreover, stations operating in a secondary service cannot claim protection from harmful interference from stations of a primary service. "Co-Primary" services have equal rights to operate in particular frequencies. See 47 C.F.R. §§ 2.104(d) and 2.105(c).

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18. In its amended application, KaStarCom proposes to operate the 73° W.L. orbit on the 19.7-20.2 GHz bands and the 109.2° W.L. orbital location on the 18.3-18.8 GHz bands for downlink operations. We grant this request consistent with the 18 GHz band plan.<sup>46</sup> Because the 280 megahertz of spectrum at 18.3-18.58 GHz is to be shared on a co-primary basis with terrestrial-fixed services, GSO FSS operations in this band must be coordinated with these terrestrial operations.

19. In addition, KaStarCom must coordinate with U.S. Government systems operating in accordance with footnote US334 to the Table of Frequency Allocations.<sup>47</sup> This footnote requires coordination of commercial systems with U.S. Government GSO and NGSO FSS systems that are presently operating throughout the 17.8-20.2 GHz frequency band. These Government systems operate in accordance with the power flux-density limits contained in the current International Telecommunication Union ("ITU") Radio Regulations.<sup>48</sup> KaStarCom must also comply with footnote US255 to the Table of Frequency Allocations that contains power flux-density limits to protect the Earth exploration satellite service (passive) for the 18.6-18.8 GHz band.<sup>49</sup>

## 2. Inter-Satellite Links

20. KaStarCom proposes to use ISLs between adjacent satellites to provide connectivity between the coverage regions of different satellite orbit locations. KaStarCom proposes to link the satellites licensed to WB Holdings in the first processing round at the 73° W.L. and 109.2° W.L. orbital locations with the 111° W.L. orbit location. When we authorized KaStarCom for the 111° orbit location,<sup>50</sup> we deferred action on KaStarCom's request to use ISLs because at that time we authorized KaStarCom for only one orbit location. We are now in a position to assign KaStarCom ISLs for use with the 111° W.L. location.

21. KaStarCom's proposed satellite system will consist of three geostationary satellite orbit satellites located at the 73° W.L., 109.2° W.L. and 111° W.L. orbital locations, with each satellite interconnected to the other two satellites.<sup>51</sup> Each satellite will be equipped with two inter-satellite links with each inter-satellite link supporting four 125-megahertz transmit channels and four 125-megahertz receive channels. Each 125-megahertz channel will be operating at a data rate as high as 155 Mbps, using QPSK modulation.<sup>52</sup> KaStarCom proposes to use the same satellites as WB Holdings at the 73° W.L. and 109.2°

<sup>46</sup> See *28 GHz Band First Report and Order*, 11 FCC Rcd 19005, as modified in *18 GHz Band Report and Order* 15 FCC Rcd at 13443, ¶ 28.

<sup>47</sup> See 47 C.F.R. § 2.106 US334.

<sup>48</sup> See *18 GHz Report and Order*, 15 FCC Rcd at 13473 ¶ 90. The power flux-density limits in the 18.3-18.6 GHz band are -115/-105 dB (W/m<sup>2</sup>) in any one megahertz band, depending upon the angle of arrival. There are currently no power flux-density limits in the 19.7-20.2 GHz band. See Letter from William T. Hatch, National Telecommunications and Information Administration, to Dale Hatfield, Chief, Office of Engineering and Technology, Federal Communications Commission (March 29, 2000).

<sup>49</sup> 47 C.F.R. § 2.106 US255 (as revised in the *18 GHz Band Report and Order*, 15 FCC Rcd at 13489) states: In addition to any other applicable limits, the power flux-density across the 200 MHz band 18.6-18.8 GHz produced at the surface of the Earth by emissions from a space station under assumed free-space propagation conditions shall not exceed -95db(W/m<sup>2</sup>) [or all] angles of arrival. This limit may be exceeded by up to 3 dB for no more than 5% of the time.

<sup>50</sup> See *KaStarCom 111° W.L. Order and Authorization*.

<sup>51</sup> Letter from Stephen E. Coran, Counsel to KaStarCom World Satellite, LLC to Magalic Roman Salas, Secretary, Federal Communications Commission (June 7, 2001).

<sup>52</sup> KaStarCom Application at p. 64.



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W.L. orbital location. KaStarCom therefore asserts it requires the same amount of ISL spectrum that was authorized to WB Holdings in order to inter-connect with its propose satellite located at the 111° W.L. orbital location.<sup>53</sup> The KaStarCom satellite located at 111° W.L. will require the same 1000 megahertz of spectrum for its ISLs in order to support the data traffic to and from WB Holdings's system. With the use of dual polarization, each satellite within the system will be capable of re-using the same spectrum. The use of ISLs will provide direct satellite-to-satellite communication, thereby avoiding the need for double-hop connectivity and increase system level reliability.

22. KaStarCom proposes to use 1000 megahertz of spectrum in the 69.0-70.0 GHz band for ISL communication.<sup>54</sup> Based on KaStarCom's representations, we find that it has demonstrated a need for 1000 megahertz of ISL spectrum. Sharing studies done by the first-round Ka-Band licensees concluded that those applicants could share the ISL spectrum with minimal constraints. We expect the same conclusion to be reached by Second Round licensees.<sup>55</sup> Consequently, we will authorize KaStarCom to conduct ISL operations in the 69.0-70.0 GHz band, subject to coordination among the First and Second Round ISL licensees, and with U.S. Government ("non-ISL") operations through NTIA's Interdepartment Radio Advisory Committee's Frequency Assignment Subcommittee.

### 3. Tracking, Telemetry and Command

23. Under the Commission's rules, tracking, telemetry and command ("TT&C") operations may be provided at the edges of the frequency bands in which the particular satellite will be providing service.<sup>56</sup> KaStarCom proposes to conduct TT&C functions in the system service band. We authorize KaStarCom to conduct TT&C operations in these service bands.

24. KaStarCom also requests authority to conduct TT&C operations outside its Ka-band service frequencies. Specifically, KaStarCom proposes to conduct its command functions in the 5856.5-5860 MHz and 6420.5-6424 MHz bands and its telemetry functions in the 3700-3703.5 MHz and 4196-4199.5 MHz bands. All of these requested operations are within the C-band frequencies, which are not the system's service band. Thus, the request is not consistent with Section 25.202(g), 47 C.F.R. § 25.202(g), of the rules.<sup>57</sup> As the Commission indicated, this rule serves the valid purpose of simplifying coordination among satellites at adjacent orbital locations, and promoting efficient spectrum use.<sup>58</sup> KaStarCom has not provided a showing to demonstrate that a waiver of Section 25.202(g) for TT&C operations outside its service band would be consistent with the basic purpose of the rule, or that the public interest otherwise requires a waiver. Thus, we deny KaStarCom's request. KaStarCom should be

<sup>53</sup> We licensed WB for 1000 megahertz of inter-satellite spectrum in the 69.0-70.0 GHz band for its two satellites located at 73° W.L. and 109.2° W.L.

<sup>54</sup> Letter from Stephen E. Coran, Counsel to KaStarCom World Satellite, LLC to Magalie Roman Salas, Secretary, Federal Communications Commission (June 7, 2001).

<sup>55</sup> For a detailed discussion of spectrum available for ISL operations, see *Amendment of Part 2 of the Commission's Rules to Allocate Additional Spectrum to the Inter-Satellite, Fixed, and Mobile Services*, ET Docket No. 99-261, *Report and Order*, FCC 00-442, at ¶ 45 (rel. Dec. 22, 2000).

<sup>56</sup> 47 C.F.R. § 25.202(g).

<sup>57</sup> See *Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band*, FCC 00-363, 15 FCC Rcd 20488, 20538 ¶ 129 (the rule "effectively limits FSS operators to operating TT&C links in the same frequency bands as their FSS operations").

<sup>58</sup> *Id.* at 12 FCC Rcd at 22333 ¶¶ 129-130.

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aware that there are potential allocation and electromagnetic compatibility issues in the 5850-5925 MHz band, therefore, the band may not be available to support its TT&C requirements.<sup>59</sup>

### C. Regulatory Treatment

25 In the *DISCO I Order*, the Commission determined that all fixed-satellite service operators in the C-band and Ku-band could elect to operate on a common carrier or non-common carrier basis.<sup>60</sup> The Commission extended this treatment to satellite operators in the Ka-band in the *Ka-Band FSS Rules Order*.<sup>61</sup> Consequently, Second Round Ka-band applicants may elect their regulatory status. KaStarCom has elected to operate on a non-common carrier basis, and we authorize it to do so.<sup>62</sup>

### D. License Conditions

#### 1. Milestone Schedule

26. As in all other satellite services, all Second Round Ka-band licensees will be required to adhere to a strict timetable for system implementation. This ensures that licensees are building their systems in a timely manner and that the orbit-spectrum resource is not being held by licensees unable or unwilling to proceed with their plans. The implementation schedules for GSO FSS systems in the Ka-band generally track the schedules imposed in other satellite services.

27. Specifically, Section 25.145(f) of the Commission's rules requires Ka-band GSO FSS licensees "[1] to begin construction of [their] first satellite within one year of grant, [2] to begin construction of the remainder within two years of grant, [3] to launch at least one satellite into each of [their] assigned orbit locations within five years of grant, and [4] to launch the remainder of [their] satellites by the date required by the International Telecommunication Union to assure international recognition and protection of those satellites."<sup>63</sup> Failure to meet any of these construction milestones will render those satellite authorizations null and void without further action by the Commission

28. The date by which KaStarCom's satellites must be "brought into use" to protect the date priority of the U.S. ITU filings for its service links at these orbital locations is June 25, 2005 and October 7, 2006.<sup>64</sup> With respect to the 109.2° W.L. orbit location, we recognize that, in this case, comparing this

<sup>59</sup> See 47 C.F.R. § 2.106 US245. See also NTIA Report-83-115, *Spectrum Resource Assessment in the 5650-5925 MHz Band*; and FCC 77-349 (rel. May 23, 1977) (which includes discussion of the sharing issues between the radiolocation and fixed-satellite service operations in the band 5850-5925 MHz).

<sup>60</sup> See *In the Matter of Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems and DBSC Petition for Declaratory Rulemaking Regarding the Use of Transponders to Provide International DBS Service*, 11 FCC Rcd 2429, 2436 (1996) ("*DISCO I Order*").

<sup>61</sup> *Ka-band FSS Rules Order*, at 22333 ¶¶ 58-60

<sup>62</sup> See KaStarCom Application, FCC Form 312.

<sup>63</sup> 47 C.F.R. § 25.145(f). See *Ku-Band FSS Rules Order*, 12 FCC Rcd at 22334-35 ¶ 61 & n.77 (1997).

<sup>64</sup> Specifically, the satellite at 109.2° W.L. must be brought into use by June 25, 2005 and the satellites at 73° W.L. must be brought into use by October 7, 2006. ITU Radio Regulations require that these satellites be brought into use no later than nine years from the date the ITU publishes the advance publication information. The ITU initially required that these locations be brought into use within six years after receipt of their advance publication information, with an option to extend that date by an additional three years upon request. Smcc WRC-2000, satellite networks at orbit locations whose advance publication information was received by the ITU before November 22, 1997 have been automatically granted the optional three-year extension. Because the two orbit locations assigned to